

Designation Run Report

Boggs, Gary - Plaintiff's Submission

Boggs, Gary 01-17-2019

Plaintiffs Affirmative Designations 00:47:16

Plaintiffs Counters 00:06:33

Plaintiff Counter Counters 00:00:48

Defense Completeness Counters 00:13:21

Total Time 01:07:59



GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
17:01 - 17:04	Boggs, Gary 01-17-2019 (00:00:06)	GB09.1
	17:1 Q. Good morning, Mr. Boggs.	
	17:2 A. Good morning.	
	17:3 Q. Please tell us your full name.	
	17:4 A. Gary Lee Boggs.	
18:08 - 18:22	Boggs, Gary 01-17-2019 (00:00:44)	GB09.2
	18:8 Q. Okay. What is your current position	
	18:9 with McKesson?	
	18:10 A. I am Vice President of Regulatory	
	18:11 Affairs and Compliance.	
	18:12 Q. And how long have you had that position?	
	18:13 A. Since August of last year.	
	18:14 Q. And can you tell me what your job	
	18:15 responsibilities are or a description of what --	
	18:16 what you do, what your role is?	
	18:17 A. Sure. I'm responsible for overseeing	
	18:18 the controlled substance monitoring program at	
	18:19 McKesson for the independent small, medium chain	
	18:20 pharmacies, hospitals, veterans, government	
	18:21 accounts, and overseeing a team that implements	
	18:22 that program across the United States.	
19:03 - 20:02	Boggs, Gary 01-17-2019 (00:01:11)	GB09.3
	19:3 Q. And prior to the current position that	
	19:4 you hold, what position did you have at McKesson?	
	19:5 A. I was a senior director of Regulatory	
	19:6 Affairs for the East region.	
	19:7 Q. And over what period of time did you	
	19:8 hold that position?	
	19:9 A. From late November of 2013 until August	
	19:10 of 2018.	
	19:11 Q. And is that when you started with	
	19:12 McKesson, in late 2013?	
	19:13 A. In late November 2013, yes.	
	19:14 Q. And what was your job responsibility as	
	19:15 senior director of Regulatory Affairs for the East	
	19:16 region?	
	19:17 A. It's similar to what it is now, except I	
	19:18 covered only half of the United States, the	
	19:19 eastern half of the United States.	
	19:20 Q. Would I understand your job	

GB09-Boggs, Gary - Plaintiff's Submission

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19:21	responsibility to have been, for the entire time	
19:22	that you've been with McKesson, to see to it that	
19:23	McKesson complies with the federal laws and	
19:24	regulations which exist in an effort to prevent	
20:1	the diversion of controlled substances outside of	
20:2	the legal framework or legal channels?	
20:04 - 22:18	Boggs, Gary 01-17-2019 (00:03:17)	GB09.4
20:4	THE WITNESS: I believe that that's part	
20:5	of the responsibilities, yes.	
20:6	BY MR. HAWAL:	
20:7	Q. As I understand it, before you joined	
20:8	McKesson in 2013, you were an employee of the Drug	
20:9	Enforcement Administration, the DEA?	
20:10	A. I was.	
20:11	Q. All right. Over what period of time	
20:12	were you with the DEA?	
20:13	A. From approximately June of 1985 until	
20:14	the end of June 2012.	
20:15	Q. And starting in June of 1985, I'm going	
20:16	to ask you to take us through what positions you	
20:17	held with the DEA. Can you tell us what your	
20:18	position was when you first started and what your	
20:19	responsibilities were?	
20:20	A. Sure, I'd be happy to.	
20:21	I became a special agent with the Drug	
20:22	Enforcement Administration in 1985, was	
20:23	transferred from Orlando, Florida, to Detroit. I	
20:24	was a special agent in the Detroit office until	
21:1	about March of 1999, when I was promoted to a	
21:2	group supervisor in Detroit. I --	
21:3	Q. Excuse me, if I can interrupt for a	
21:4	minute.	
21:5	Up through March of 1999, did you have	
21:6	any responsibilities in dealing with manufacturers	
21:7	or distributors of controlled substances?	
21:8	A. Not very much, no. Very little.	
21:9	Q. So you stopped at March of 1999. Can	
21:10	you continue and take us forward with your	
21:11	positions with the DEA.	
21:12	A. Sure. I was a group supervisor	

21:13 beginning around March of 1999. I oversaw as a
 21:14 group supervisor two or three different units.
 21:15 Then I was a unit chief, also in Detroit, over the
 21:16 special services section.
 21:17 I was then transferred to headquarters
 21:18 here in the District in 2003. I was a unit chief
 21:19 in the Office of Special Intelligence. Was then
 21:20 promoted in January of 2006 to be the executive
 21:21 assistant in the Office of Diversion Control, and
 21:22 I held that position until I retired from the DEA
 21:23 in June of 2012.

21:24 Q. All right. And as executive assistant
 22:1 in the division of -- what -- what was that again?
 22:2 What --

22:3 A. At the time it was called the Office of
 22:4 Diversion Control. It's now the Diversion Control
 22:5 Division.

22:6 Q. And what were your responsibilities in
 22:7 that position?

22:8 A. My responsibilities were, I would sort
 22:9 of say like a chief of staff to the person
 22:10 overseeing that section. We had day-to-day
 22:11 responsibilities for the implementation of the
 22:12 regulatory aspect of the Controlled Substances
 22:13 Act, overseeing the DEA registrants that were
 22:14 authorized to handle controlled substances.
 22:15 That's essentially it.

22:16 Q. And the DEA registrants that you're
 22:17 referring to would be wholesalers like McKesson?

22:18 A. That's one example of them.

25:01 - 26:15

Boggs, Gary 01-17-2019 (00:02:01)

GB09.5

25:1 Q. Mr. Boggs, before we went off the
 25:2 record, I believe that you mentioned that you
 25:3 joined DEA's Office of Diversion Control in
 25:4 January of 2006; is that correct?

25:5 A. That's correct, yes.

25:6 Q. And were you -- in that position, were
 25:7 you responsible for interacting with wholesalers
 25:8 and manufacturers of controlled substances?

25:9 A. I was.

25:10 Q. And was part of your job responsibility
 25:11 to ensure that they were complying with the
 25:12 Controlled Substances Act and federal laws and
 25:13 regulations relating to controlled substances?
 25:14 A. It was.
 25:15 Q. All right. And was your direct
 25:16 supervisor Mr. Rannazzisi?
 25:17 A. He was.
 25:18 Q. And how long was he your direct
 25:19 supervisor?
 25:20 A. The entire -- from 2000 -- January 2006
 25:21 till I retired in June of 2012.
 25:22 Q. Before you became an employee of
 25:23 McKesson in late 2013, was there a period of time
 25:24 that you were a consultant for McKesson?
 26:1 A. I consulted for McKesson just for a
 26:2 couple of times prior to becoming an employee of
 26:3 McKesson, yes.
 26:4 Q. And over what period of time did that
 26:5 occur?
 26:6 A. It would have been, I believe, around
 26:7 the summer of 2013, on and off a couple of times.
 26:8 Q. And what did -- what was your role --
 26:9 what did you -- what were you doing or what were
 26:10 you asked to do as a consultant for McKesson?
 26:11 A. I was asked to look at the Regulatory
 26:12 Affairs program that they had. I was asked to
 26:13 provide some training. I was asked to speak at a
 26:14 couple of different conferences that McKesson had
 26:15 put on for other folks outside of McKesson.

34:19 - 35:04

Boggs, Gary 01-17-2019 (00:00:34)

GB09.6

34:19 Q. What is your understanding as to when
 34:20 the opioid crisis was first appreciated in the
 34:21 United States?
 34:22 A. I believe that it began approximately
 34:23 three decades ago.
 34:24 Q. And is it your understanding that the
 35:1 opioid crisis since that time has consistently
 35:2 worsened in terms of its effect on individuals as
 35:3 well as communities and governmental entities in

GB09-Boggs, Gary - Plaintiff's Submission

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35:06 - 35:07	35:4 the United States? Boggs, Gary 01-17-2019 (00:00:03)	GB09.7
39:24 - 40:04	35:6 THE WITNESS: I believe that that is an 35:7 accurate representation. Boggs, Gary 01-17-2019 (00:00:15)	GB09.8
40:06 - 40:12	39:24 Q. Now, since you've joined McKesson, did 40:1 you know that distributors must be vigilant in 40:2 deciding whether a prospective customer can be 40:3 trusted to deliver controlled substances only for 40:4 lawful purposes? Boggs, Gary 01-17-2019 (00:00:15)	GB09.9
40:14 - 40:15	40:6 THE WITNESS: I can't speak for all 40:7 distributors. For -- for McKesson, I understand 40:8 that we have an obligation to maintain control. 40:9 BY MR. HAWAL: 40:10 Q. And do you understand that that 40:11 responsibility is critical? 40:12 A. I understand that -- Boggs, Gary 01-17-2019 (00:00:02)	GB09.10
42:14 - 42:22	40:14 THE WITNESS: -- it's very important, 40:15 yes. Boggs, Gary 01-17-2019 (00:00:33)	GB09.11
43:01 - 43:08	42:14 Q. Well, let's assume for the sake of my 42:15 question that a distributor fails to report 42:16 suspicious orders or block orders that are 42:17 suspicious and delivers them to a customer. 42:18 Do you believe, based upon your current 42:19 understanding of federal laws, regulations and how 42:20 the distribution of controlled substances work, 42:21 that just one distributor that facilitates 42:22 diversion can cause enormous harm? Boggs, Gary 01-17-2019 (00:00:19)	GB09.12
	43:1 THE WITNESS: I think the first part of 43:2 your statement was about failure to report a 43:3 suspicious order. That's a reporting requirement. 43:4 And it -- you may be assuming that that order was 43:5 shipped and maybe it wasn't shipped. 43:6 The other second part of that is 43:7 assuming that even if it was shipped, that it 43:8 somehow may or may not have been diverted.	

GB09-Boggs, Gary - Plaintiff's Submission

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69:16 - 69:18	Boggs, Gary 01-17-2019 (00:00:10) 69:16 Q. other than just reporting 69:17 suspicious orders, what other obligations does a 69:18 distributor have such as McKesson?	GB09.13
69:22 - 70:11	Boggs, Gary 01-17-2019 (00:00:33) 69:22 THE WITNESS: A distributor has a 69:23 responsibility to maintain security over those 69:24 controlled substances that are maintained in our 70:1 warehouses, and we do that through cages and 70:2 vaults and security cameras, and all of those 70:3 kinds of things, while those things are in our 70:4 possession. 70:5 BY MR. HAWAL: 70:6 Q. Well, we're talking about reporting 70:7 suspicious orders. 70:8 What other -- in the context of this 70:9 statement, what other responsibilities does a 70:10 distributor have which is not relieved simply by 70:11 reporting suspicious orders?	GB09.14
70:14 - 70:22	Boggs, Gary 01-17-2019 (00:00:11) 70:14 THE WITNESS: Well, what the -- what 70:15 you're asking me about is the -- maintaining 70:16 effective controls against diversion, and part of 70:17 that is the security while they're in our 70:18 possession. 70:19 BY MR. HAWAL: 70:20 Q. Well -- 70:21 A. That's maintaining effective controls 70:22 against diversion.	GB09.15
71:02 - 71:05	Boggs, Gary 01-17-2019 (00:00:15) 71:2 What other responsibilities does a 71:3 distributor like McKesson have beyond simply 71:4 reporting a suspicious order as it relates to 71:5 suspicious orders?	GB09.16
71:08 - 71:19	Boggs, Gary 01-17-2019 (00:00:34) 71:8 THE WITNESS: Well, there's two 71:9 different obligations that we have. Under the -- 71:10 as you're asking me about suspicious orders, our 71:11 obligation under the regulation is to design and 71:12 operate a system to identify suspicious orders,	GB09.17

GB09-Boggs, Gary - Plaintiff's Submission

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71:21 - 71:23	<p>71:13 and then report those to the DEA. That's the</p> <p>71:14 regulation for suspicious orders.</p> <p>71:15 BY MR. HAWAL:</p> <p>71:16 Q. Well, does that obligation also require</p> <p>71:17 McKesson to not ship a suspicious order unless</p> <p>71:18 it's determined through due diligence that it is</p> <p>71:19 unlikely to be diverted into illicit channels?</p> <p>Boggs, Gary 01-17-2019 (00:00:06)</p>	GB09.18
87:05 - 87:08	<p>71:21 THE WITNESS: I'm not aware</p> <p>71:22 anywhere in the regulation it says not to ship.</p> <p>71:23 It says to identify and report suspicious orders.</p> <p>Boggs, Gary 01-17-2019 (00:00:21)</p>	GB09.19
87:10 - 88:18	<p>87:5 Since you've come to McKesson, did you</p> <p>87:6 ever learn from the DEA that McKesson could</p> <p>87:7 delegate to its customers the legal obligations to</p> <p>87:8 prevent diversion of controlled substances?</p> <p>Boggs, Gary 01-17-2019 (00:01:19)</p> <p>87:10 THE WITNESS: I'm not sure I understand</p> <p>87:11 your question.</p> <p>87:12 BY MR. HAWAL:</p> <p>87:13 Q. Well, we've talked about all the legal</p> <p>87:14 obligations that a company like McKesson has as a</p> <p>87:15 distributor to put in place a system to prevent</p> <p>87:16 the diversion of controlled substances, right?</p> <p>87:17 A. That's correct.</p> <p>87:18 Q. Have you ever been told by the DEA that</p> <p>87:19 McKesson could delegate that legal obligation to</p> <p>87:20 its pharmacy customers?</p> <p>87:21 A. It -- the pharmacy customers have their</p> <p>87:22 own regulatory obligations to maintain effective</p> <p>87:23 controls against diversion.</p> <p>87:24 Q. So does -- does McKesson delegate its</p> <p>88:1 obligations under the Controlled Substances Act to</p> <p>88:2 customers?</p> <p>88:3 A. Not to my knowledge.</p> <p>88:4 Q. I mean, it's McKesson's obligation, and</p> <p>88:5 it's a non-delegable obligation, true?</p> <p>88:6 A. Well, all registrants have various</p> <p>88:7 obligations. So, you know, it's not just</p> <p>88:8 McKesson's obligation and nobody else's.</p>	GB09.20

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	88:9 Q. I under- --	
	88:10 A. Other registrants have obligations as	
	88:11 well.	
	88:12 Q. I understand. But my question relates	
	88:13 to the obligations of a distributor like McKesson.	
	88:14 It has certain legal obligations, correct?	
	88:15 A. That's correct.	
	88:16 Q. You agree with me that McKesson cannot	
	88:17 delegate its obligations to a customer?	
	88:18 A. I agree.	
94:17 - 94:19	Boggs, Gary 01-17-2019 (00:00:08)	GB09.21
	94:17 Q. And do you agree that the law requires	
	94:18 that suspicious orders that are blocked should not	
	94:19 be shipped to the customer?	
95:01 - 95:08	Boggs, Gary 01-17-2019 (00:00:22)	GB09.22
	95:1 THE WITNESS: I don't know that there's	
	95:2 anything in the law that there's a requirement to	
	95:3 not ship that -- that. It says to identify and	
	95:4 report suspicious orders.	
	95:5 BY MR. HAWAL:	
	95:6 Q. So is it your position that a suspicious	
	95:7 order that is identified and reported can be	
	95:8 shipped or should be shipped?	
95:11 - 95:12	Boggs, Gary 01-17-2019 (00:00:04)	GB09.23
	95:11 THE WITNESS: Under our program, we	
	95:12 block the order and don't ship it.	
95:14 - 95:22	Boggs, Gary 01-17-2019 (00:00:28)	GB09.177
	95:14 Q. All right. And why do you do that?	
	95:15 A. Because we have -- we -- that is the way	
	95:16 we have structured our program. There have been	
	95:17 recent court rulings that if you operate a	
	95:18 different type of a program to involve	
	95:19 decision-making to ship that, it requires some	
	95:20 additional due diligence before you can ship that.	
	95:21 We choose a more conservative approach in the way	
	95:22 we operate our program.	
95:24 - 96:02	Boggs, Gary 01-17-2019 (00:00:11)	GB09.24
	95:24 Q. you do that in order to	
	96:1 effectively exercise your responsibility to avoid	
	96:2 diversion, true?	

GB09-Boggs, Gary - Plaintiff's Submission

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96:04 - 96:21	Boggs, Gary 01-17-2019 (00:00:51) 96:4 THE WITNESS: Well, I think, first of 96:5 all, you have to understand that a suspicious 96:6 order does not equal a suspicious customer. It's 96:7 important to understand that -- that orders that 96:8 are simply of unusual size or deviate 96:9 substantially from a normal pattern or -- or 96:10 frequency are simply that. Without further 96:11 knowing more about the customer, you don't know 96:12 whether or not that suspicious order is destined 96:13 for diversion or not. And we know from our 96:14 experience, more likely than not that that's not 96:15 the case. 96:16 So to focus on a suspicious order is 96:17 actually misplaced. If you really want to know 96:18 whether or not diversion may or may not occur, you 96:19 need to know the customer. And so part of our 96:20 program is extensive due diligence so that we know 96:21 our customer.	GB09.25
97:14 - 97:17	Boggs, Gary 01-17-2019 (00:00:10) 97:14 Q. I understand that there are all sorts of 97:15 possibilities, but the fact of the matter is that 97:16 suspicious orders can lead you to a suspicious 97:17 customer, true?	GB09.26
97:20 - 98:02	Boggs, Gary 01-17-2019 (00:00:09) 97:20 THE WITNESS: Without knowing more about 97:21 the customer, no. 97:22 BY MR. HAWAL: 97:23 Q. Well -- 97:24 A. There is an assumption that a suspicious 98:1 order equals a suspicious customer, and that's 98:2 very misplaced from my experience.	GB09.27
127:18 - 128:03	Boggs, Gary 01-17-2019 (00:00:39) 127:18 Q. Mr. Boggs, I've handed you what has been 127:19 marked as Plaintiffs' Exhibit 9, bearing Bates 127:20 stamp MCK-AGMS-0060000880. 127:21 It is a PowerPoint presentation, "State 127:22 of Prescription Drug Abuse," with McKesson's name 127:23 at the top, and your name and the term "Olive 127:24 Branch."	GB09.28

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128:16 - 129:03	<p>128:1 Do you recall this PowerPoint 128:2 presentation? 128:3 A. I do.</p> <p>Boggs, Gary 01-17-2019 (00:00:34)</p> <p>128:16 Q. And this was prepared -- what does 128:17 "Olive Branch" mean? 128:18 A. Olive Branch is where the McKesson's 128:19 national redistribution center is. It's Olive 128:20 Branch, Mississippi. 128:21 Q. Okay. And this would have been prepared 128:22 after you left the DEA? 128:23 A. It would. 128:24 Q. Did it contain information that you 129:1 would have learned or become aware of when you 129:2 worked for the DEA? 129:3 A. It did. It does.</p>	GB09.29
129:24 - 130:20	<p>Boggs, Gary 01-17-2019 (00:01:07)</p> <p>129:24 Q. And when was it presented and -- and 130:1 where? 130:2 A. It was presented at the national 130:3 redistribution center, McKesson's national 130:4 redistribution center in Olive Branch, 130:5 Mississippi. It would have been probably sometime 130:6 in the summer of 2013. 130:7 Q. And this was when you were retained to 130:8 be a consultant for McKesson? 130:9 A. It was. 130:10 Q. And who was in attendance for you to 130:11 present this to? 130:12 A. The individuals that were part of 130:13 McKesson's Regulatory Affairs program were in 130:14 attendance. There were representatives at the 130:15 distribution center leadership team, such as a 130:16 distribution center manager or a distribution 130:17 center director of operations from across the 130:18 country were in attendance. Don Walker was in 130:19 attendance. There were several other individuals. 130:20 I don't recall every single one of them.</p>	GB09.30
131:05 - 131:15	<p>Boggs, Gary 01-17-2019 (00:00:35)</p> <p>131:5 Q. Well, I assume that when you were making</p>	GB09.31

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	131:6 this presentation to McKesson, you were intending 131:7 to provide accurate information, true, as you 131:8 understood it? 131:9 A. Absolutely. 131:10 Q. Okay. And the title of the -- on the 131:11 next page is "The Impact of Effective Compliance: 131:12 Protecting America from Prescription Drug 131:13 Diversion." 131:14 Is that a title that you created? 131:15 A. It is.	
133:09 - 133:14	Boggs, Gary 01-17-2019 (00:00:21) 133:9 BY MR. HAWAL: 133:10 Q. And then the next page you have a chart 133:11 or graph depicting rising opioid deaths, sales, 133:12 and treatment admissions from 1999 to 2010. 133:13 Correct? 133:14 A. I do.	GB09.32
134:05 - 134:09	Boggs, Gary 01-17-2019 (00:00:20) 134:5 Q. So are you saying that you do not agree 134:6 that as greater amounts of opioid pills are 134:7 diverted into the illicit marketplace, that the 134:8 probability is that the number of addictions and 134:9 deaths will increase?	GB09.33
134:22 - 134:24	Boggs, Gary 01-17-2019 (00:00:07) 134:22 THE WITNESS: I -- I think there is a 134:23 correlation between diversion and -- and 134:24 associated problems with diversion.	GB09.34
135:02 - 135:05	Boggs, Gary 01-17-2019 (00:00:15) 135:2 Q. Well, true. And the greater the amount 135:3 of diversion, the greater the likelihood is of 135:4 ensuing harm, such as addiction and death. True? 135:5 A. I believe that's a fair statement, yes.	GB09.35
135:06 - 135:08	Boggs, Gary 01-17-2019 (00:00:11) 135:6 Q. What was the source of this information 135:7 used to create this graph or chart? 135:8 A. I -- I don't recall.	GB09.36
136:02 - 136:04	Boggs, Gary 01-17-2019 (00:00:16) 136:2 Q. And you have a slide, and, 136:3 unfortunately -- well, let me reference the Bates 136:4 number, 892, where you have a graph -- well, you	GB09.37

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136:05 - 136:13	Boggs, Gary 01-17-2019 (00:00:28) 136:5 have photograph depicting what can happen when the 136:6 types of checks and balances are not followed, 136:7 correct, and you have a collapsing building? 136:8 A. That's what's on the slide, yes. 136:9 Q. Are you trying to emphasize how 136:10 important it is for distributors like McKesson to 136:11 strictly follow their legal obligations under the 136:12 Controlled Substances Act and the federal 136:13 regulations relating to controlled substances?	GB09.38
136:17 - 137:13	Boggs, Gary 01-17-2019 (00:00:58) 136:17 THE WITNESS: What I'm trying to depict 136:18 here is, is all of the members within the closed 136:19 system of distribution, which would include 136:20 distributors, but it's not just isolated to them. 136:21 It's for all of them, all the -- 136:22 BY MR. HAWAL: 136:23 Q. Including -- 136:24 A. -- responsible -- 137:1 Q. Including manufacturers of opioids, 137:2 right? 137:3 A. And pharmacists -- or pharmacies and 137:4 pharmacists and doctors. 137:5 Q. On page 897, you reference "Florida pill 137:6 mills, resulting oxy spills." 137:7 Was there a particular problem in 137:8 Florida in the late 2000s, including 2009 and 137:9 2010, as it related to large quantities of opioids 137:10 being diverted into the illicit marketplace? 137:11 A. There was a significant diversion scheme 137:12 related to pain -- rogue pain clinics or what were 137:13 often referred to as pill mills.	GB09.39
139:07 - 139:07	Boggs, Gary 01-17-2019 (00:00:07) 139:7 Q. And then on page 903, you have a slide	GB09.40
139:08 - 139:20	Boggs, Gary 01-17-2019 (00:00:35) 139:8 that references: "A national epidemic: More than 139:9 45 people die per day from prescription opioids." 139:10 And then you have some statistics. 139:11 And then you have the last sentence: 139:12 "Economic impact to America, \$57 billion per	GB09.41

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	139:13 year."	
	139:14 Do you recall where you obtained that	
	139:15 data?	
	139:16 A. I believe there was a study published	
	139:17 that was publicly available on the internet that I	
	139:18 obtained that from. I don't recall the -- the	
	139:19 exact study, but I recall obtaining it off of the	
	139:20 internet.	
141:05 - 141:22	Boggs, Gary 01-17-2019 (00:01:02)	GB09.42
	141:5 Q. The next slide says: "Are we	
	141:6 contributing to the problem," question mark.	
	141:7 Are you -- you're referring to	
	141:8 distributors, right?	
	141:9 A. I am.	
	141:10 Q. And you're referencing problems that you	
	141:11 have seen as to what a distributor -- what certain	
	141:12 distributors have been doing to contribute to the	
	141:13 opioid crisis, correct?	
	141:14 A. The bullets that are in here are focused	
	141:15 specifically on a diversion scheme, and in this	
	141:16 case it would have been a pill mill or rogue pain	
	141:17 clinic. But that -- that was the focus of -- of	
	141:18 this particular slide and what some of the bullets	
	141:19 might be associated with that.	
	141:20 Q. Well, a pill mill is not going to get	
	141:21 pills unless it gets them directly from a	
	141:22 distributor or manufacturer, correct?	
141:24 - 142:07	Boggs, Gary 01-17-2019 (00:00:26)	GB09.43
	141:24 THE WITNESS: Generally speaking, that's	
	142:1 true.	
	142:2 BY MR. HAWAL:	
	142:3 Q. Yeah. And are you trying to emphasize	
	142:4 that part of the problem that was occurring with	
	142:5 certain pill mills is that distributors were	
	142:6 shipping controlled substances in exorbitant	
	142:7 amounts as one factor?	
142:09 - 142:22	Boggs, Gary 01-17-2019 (00:00:51)	GB09.44
	142:9 THE WITNESS: I believe it was more of	
	142:10 in terms of a specific or cumulative amounts that	
	142:11 would be going to a single location over a period	

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	142:12 of time.	
	142:13 BY MR. HAWAL:	
	142:14 Q. I mean, for example, if a small	
	142:15 community in a given state that has, you know, 600	
	142:16 adults -- you know, a population of 600 adults and	
	142:17 is getting hundreds of thousands of opioid pills	
	142:18 provided to one pharmacy in such a small	
	142:19 community, that would indicate to you an example	
	142:20 of an exorbitant amount of pills going to a	
	142:21 potentially suspicious customer. Fair?	
	142:22 A. It could be, yes.	
143:21 - 143:24	Boggs, Gary 01-17-2019 (00:00:16)	GB09.45
	143:21 Q. Well, what other than harm would result	
	143:22 from an exorbitant amount of pills being shipped	
	143:23 to a given community where there's a known	
	143:24 epicenter of diversion?	
144:02 - 144:23	Boggs, Gary 01-17-2019 (00:00:58)	GB09.46
	144:2 THE WITNESS: I mean there can be	
	144:3 certain situations where an exorbitant amount is	
	144:4 totally legitimate. I mean on its face,	
	144:5 exorbitant amount is a red flag. It doesn't	
	144:6 necessarily mean where you can jump to the	
	144:7 conclusion an exorbitant amount automatically is	
	144:8 diversion.	
	144:9 BY MR. HAWAL:	
	144:10 Q. I'm not -- I'm not saying automatically,	
	144:11 but generally speaking, would you agree that an	
	144:12 exorbitant amount going to a small community that	
	144:13 is also in the epicenter of diversion, that that	
	144:14 would be consistent with a greater degree of harm?	
	144:15 A. I think it requires a greater -- you	
	144:16 know, more diligence to determine what's going on	
	144:17 and what the factors are there, and maybe it's	
	144:18 diversion or maybe there's a legitimate reason.	
	144:19 Q. Well, are you -- are you -- did you	
	144:20 create this slide because you knew that this had	
	144:21 been happening?	
	144:22 A. I created this slide because of the	
	144:23 rogue pill mills in Florida.	
144:24 - 145:04	Boggs, Gary 01-17-2019 (00:00:17)	GB09.178

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144:24	Q. So you knew that this was happening,	
145:1	exorbitant amounts of -- of opioids were being	
145:2	provided to certain customers by distributors in	
145:3	areas that were known to be epicenters of	
145:4	diversion. True?	
145:06 - 145:07	Boggs, Gary 01-17-2019 (00:00:03)	GB09.179
145:6	THE WITNESS: For the pill mill, yes,	
145:7	that was the purpose of the slide.	
145:09 - 145:13	Boggs, Gary 01-17-2019 (00:00:14)	GB09.47
145:9	Q. And each of these factors would be a	
145:10	potential red flag that a distributor should be	
145:11	looking at. Correct?	
145:12	A. They are -- they are red flags that you	
145:13	should look at, yes.	
145:14 - 145:17	Boggs, Gary 01-17-2019 (00:00:14)	GB09.48
145:14	Q. And these would be red flags that would	
145:15	not have been first known in 2013, but would have	
145:16	been red flags that distributors should have been	
145:17	aware of for many years. True?	
145:19 - 146:03	Boggs, Gary 01-17-2019 (00:00:31)	GB09.49
145:19	THE WITNESS: I don't know that that's	
145:20	necessarily the case. We're -- we're talking	
145:21	about a couple of significant diversion schemes	
145:22	that occurred at a period of time that have	
145:23	never -- never happened before in this country.	
145:24	So the red flags sometimes are very specific to	
146:1	that criminal scheme that may not be applicable to	
146:2	other types of schemes or other day-to-day	
146:3	operations of regular pharmacies or practitioners.	
146:05 - 146:09	Boggs, Gary 01-17-2019 (00:00:21)	GB09.50
146:5	Q. Well, sir, if a -- if a distributor in	
146:6	2005 was aware that these red flags were occurring	
146:7	in a given community or related to a given	
146:8	customer, should these have been red flags in 2005	
146:9	as well as they were in 2013?	
146:14 - 146:17	Boggs, Gary 01-17-2019 (00:00:11)	GB09.51
146:14	THE WITNESS: I think that they are red	
146:15	flags, yes.	
146:16	BY MR. HAWAL:	
146:17	Q. Now, going to slide 907. "Communication	

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146:18 - 146:21	Boggs, Gary 01-17-2019 (00:00:26) 146:18 Advanced Warnings." These are bullet points that 146:19 indicate how distributors should have been aware 146:20 of their obligations to prevent diversion. 146:21 Correct?	GB09.52
146:23 - 147:16	Boggs, Gary 01-17-2019 (00:00:51) 146:23 THE WITNESS: These -- these are some 146:24 indicate -- or some examples of where information 147:1 was available to distributors, yes. 147:2 BY MR. HAWAL: 147:3 Q. And the next slide refers to ARCOS data. 147:4 What were you intending to communicate with that 147:5 slide? 147:6 A. That we need to as a distributor look at 147:7 the data, the ARCOS data, and look as -- at that 147:8 and whether or not there's any indication in there 147:9 that we need to follow up on. 147:10 Q. And when you reference -- when you're 147:11 referring to ARCOS data, you're referring to data 147:12 that distributors have relating to the quantity of 147:13 different opioids that are being distributed to 147:14 given customers? 147:15 A. Specific -- ARCOS data specific to that 147:16 distributor.	GB09.53
147:17 - 147:20	Boggs, Gary 01-17-2019 (00:00:03) 147:17 Q. Yes. 147:18 A. It's not all-encompassing -- 147:19 Q. Right. 147:20 A. -- of what is going to a customer.	GB09.54
147:21 - 148:01	Boggs, Gary 01-17-2019 (00:00:20) 147:21 Q. I mean, for example, McKesson has 147:22 information in its data or its -- in its system 147:23 which identifies over time how many pills -- 147:24 individual pills of a given opioid were 148:1 distributed to a given customer. True?	GB09.55
148:03 - 148:10	Boggs, Gary 01-17-2019 (00:00:26) 148:3 THE WITNESS: That McKesson distributed, 148:4 yes. 148:5 BY MR. HAWAL: 148:6 Q. Right. And early warning sign for an	GB09.56

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148:12 - 148:12	148:7 emerging trend would reflect -- would reflect your 148:8 message to McKesson as to the importance of 148:9 looking at the quantity of controlled substances 148:10 that are being supplied to given customers, right? Boggs, Gary 01-17-2019 (00:00:01)	GB09.57
148:13 - 148:23	148:12 THE WITNESS: That's correct. Boggs, Gary 01-17-2019 (00:00:55) 148:13 BY MR. HAWAL: 148:14 Q. And then on slide 920, you have a slide 148:15 that's identified "Detecting Suspicious Orders," 148:16 and I assume that you were informing the McKesson 148:17 employees that were at the presentation that it's 148:18 important to look at red flags. Correct? 148:19 A. That's correct. 148:20 Q. And not only have employees be vigilant 148:21 about individual customers, but also listening to 148:22 those employees when they identify signs that are 148:23 suspicious for diversion?	GB09.58
149:01 - 149:05	Boggs, Gary 01-17-2019 (00:00:11) 149:1 THE WITNESS: That's correct. 149:2 BY MR. HAWAL: 149:3 Q. And that would be part of the onboarding 149:4 process when a new customer is coming to McKesson 149:5 for the first time?	GB09.59
149:07 - 149:12	Boggs, Gary 01-17-2019 (00:00:15) 149:7 THE WITNESS: That's correct. 149:8 BY MR. HAWAL: 149:9 Q. And periodically visiting individual 149:10 pharmacies to try and determine whether they are 149:11 legitimate or whether they are involved in 149:12 diversion?	GB09.60
149:14 - 150:05	Boggs, Gary 01-17-2019 (00:00:46) 149:14 THE WITNESS: That's correct. 149:15 BY MR. HAWAL: 149:16 Q. And what do you mean by, "Do not rely 149:17 solely on thresholds or algorithms as a shortcut 149:18 to detect suspicious orders"? 149:19 A. I mean that we need to conduct 149:20 additional -- or conduct due -- due diligence, I'm 149:21 sorry, of our customers, making sure that we	GB09.61

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	149:22 understand what they're doing, whether or not they 149:23 give us reason to believe that they're going to 149:24 fulfill their regulatory obligations.	
150:07 - 150:11	150:1 Q. And that -- that part of it would be 150:2 that if a customer, for example, wants to increase 150:3 their threshold, that requires some due diligence 150:4 on the part of McKesson before the threshold is 150:5 increased, correct? Boggs, Gary 01-17-2019 (00:00:09)	GB09.62
150:13 - 150:21	150:7 THE WITNESS: Generally speaking, yes, I 150:8 would agree with that. 150:9 BY MR. HAWAL: 150:10 Q. And that should have been occurring how 150:11 far back at a company like McKesson? Boggs, Gary 01-17-2019 (00:00:25)	GB09.63
150:23 - 151:01	150:13 THE WITNESS: Thresholds were not 150:14 necessarily something that was an industry 150:15 practice until probably 2006, '7 time frame. So 150:16 around that time frame, I guess. 150:17 BY MR. HAWAL: 150:18 Q. Well, it could have been an industry 150:19 practice earlier than that. There's nothing 150:20 unique about setting thresholds that coincides 150:21 with 2006 and 2007. True? Boggs, Gary 01-17-2019 (00:00:06)	GB09.64
179:11 - 180:10	150:23 THE WITNESS: It -- it's one methodology 150:24 to identify and report suspicious orders. There 151:1 may be others. Boggs, Gary 01-17-2019 (00:01:10) 179:11 Q. So is it your position that McKesson has 179:12 not contributed to the opioid epidemic? 179:13 A. Well, I think -- first of all, I 179:14 believe, and I know McKesson believes, that the 179:15 opioid epidemic is a significant problem in this 179:16 country, and it's a problem that's evolved over 179:17 several years or several decades. It's a -- the 179:18 deaths associated with it are horrific. The 179:19 employees in McKesson are not immune from it. The 179:20 family members at McKesson are not immune from it, 179:21 and that's why we take our regulatory obligations	GB09.65

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179:22 seriously.

179:23 We do significant security procedures at

179:24 each and every one of our facilities to make sure

180:1 that we maintain effective controls. Because we

180:2 have large volumes of controlled substances in

180:3 those facilities, we have alarm systems, cameras,

180:4 cages, concrete vaults. We make sure that they're

180:5 secure while they are in our possession.

180:6 When we pass them on downstream to our

180:7 customers, we make sure that we conduct a due

180:8 diligence as best that we can to know our

180:9 customers. Does that mean we contributed to the

180:10 opioid epidemic? I don't agree with that.

196:21 - 197:11

Boggs, Gary 01-17-2019 (00:00:45)

GB09.66

196:21 Q. Mr. Boggs, I'm going to hand you what

196:22 has been marked as Plaintiffs' Exhibit 14.

196:23 Did you make a presentation to the West

196:24 Virginia Attorney General on September 1st, 2015,

197:1 on behalf of McKesson?

197:2 A. I did.

197:3 Q. And who else accompanied you from

197:4 McKesson, if anyone?

197:5 A. From McKesson, I don't believe there was

197:6 anybody else.

197:7 Q. And who initiated the presentation? In

197:8 other words, how did it come about? Was it at --

197:9 at your suggestion or at McKesson's suggestion or

197:10 the West Virginia Attorney General's suggestion?

197:11 A. I --

197:14 - 198:04

Boggs, Gary 01-17-2019 (00:00:44)

GB09.67

197:14 THE WITNESS: I believe it was at the

197:15 request of McKesson through their counsel to the

197:16 Attorney General's Office.

197:17 BY MR. HAWAL:

197:18 Q. And what did you understand the purpose

197:19 of this presentation to be?

197:20 A. Was to provide the Attorney General and

197:21 his staff who might be in attendance what McKesson

197:22 was doing on our Controlled Substance Monitoring

197:23 Program and the efforts that were taken to conduct

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	197:24 due diligence on our customers.	
	198:1 Q. Was it, in essence, an effort by	
	198:2 McKesson to tout the due diligence program that it	
	198:3 had in place to address the opioid crisis in West	
	198:4 Virginia?	
198:07 - 198:10	Boggs, Gary 01-17-2019 (00:00:09)	GB09.68
	198:7 THE WITNESS: I think it was an effort	
	198:8 to inform the Attorney General on the efforts that	
	198:9 McKesson was taking in that particular state as	
	198:10 well as other states.	
201:17 - 202:06	Boggs, Gary 01-17-2019 (00:00:58)	GB09.69
	201:17 Q. I'm going to refer you to slide 8 of	
	201:18 this PowerPoint presentation that you made to the	
	201:19 Attorney General of the State of West Virginia. I	
	201:20 should mention that the Bates number for this	
	201:21 slide is MCKMDL00695070.	
	201:22 This was a slide that you prepared?	
	201:23 A. It is.	
	201:24 Q. And does this provide information as to	
	202:1 what steps McKesson had in place in an effort to	
	202:2 prevent opioid diversion?	
	202:3 A. It does.	
	202:4 Q. Are these steps that you implemented as	
	202:5 a part of your efforts to improve McKesson's	
	202:6 diversion control of opioid pills?	
202:09 - 202:10	Boggs, Gary 01-17-2019 (00:00:02)	GB09.70
	202:9 THE WITNESS: Mine and others since I've	
	202:10 been at McKesson, yes.	
202:12 - 203:13	Boggs, Gary 01-17-2019 (00:01:11)	GB09.71
	202:12 Q. And who -- who else would have	
	202:13 implemented or created these changes?	
	202:14 A. Several folks within the Regulatory	
	202:15 Affairs program. Input from counsel, input from	
	202:16 analytical folks.	
	202:17 Q. And over what period of time were these	
	202:18 steps taken?	
	202:19 A. We continue to evolve our program on	
	202:20 a --	
	202:21 Q. Well --	
	202:22 A. -- continuously.	

202:23 Q. -- this was dated September 1st, 2015.
 202:24 When did this program begin at McKesson of
 203:1 strengthening its CSMP program as you describe in
 203:2 this slide?
 203:3 A. As we spoke earlier today, there was a
 203:4 Lifestyle Drug Monitoring Program that started
 203:5 around 2018 that evolved into the Controlled
 203:6 Substance Monitoring Program in -- around 2008.
 203:7 And we continued to -- we've continued to evolve
 203:8 our program --
 203:9 Q. I'm not interested in past evolution.
 203:10 I'm interested in what you've done since you
 203:11 joined McKesson in 2013.
 203:12 Is that depicted here on this slide 8?
 203:13 A. It is.

203:14 - 204:14

Boggs, Gary 01-17-2019 (00:01:23)

GB09.72

203:14 Q. All right. One of the things that you
 203:15 did was you established strong governance?
 203:16 A. We did.
 203:17 Q. What's that mean?
 203:18 A. We have a national governance committee
 203:19 made up of senior executives within McKesson that
 203:20 are provided briefings and overviews on our
 203:21 program, some of the different issues that might
 203:22 be impacting our program or our customers as it
 203:23 relates to controlled substances.
 203:24 We have what we call the Regulatory
 204:1 Affairs operating committee, which is made up of
 204:2 senior executives within the regulatory program,
 204:3 myself, my boss, my colleagues at my level. We
 204:4 oversee policies and procedures and overview that.
 204:5 Those are some examples of the governance.
 204:6 Q. And was this something that was started
 204:7 in 2014 or 2015, or can you tell us when it was
 204:8 started?
 204:9 A. I believe sometime around 2014.
 204:10 Q. All right. And the purpose of that is
 204:11 to provide diligent oversight over McKesson's
 204:12 obligations to conform to the federal laws and
 204:13 regulations relating to maintaining effective

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204:16 - 204:16	204:14 controls to prevent diversion? Boggs, Gary 01-17-2019 (00:00:01)	GB09.73
204:18 - 204:19	204:16 THE WITNESS: It is -- it is. Boggs, Gary 01-17-2019 (00:00:05)	GB09.74
204:23 - 205:05	204:18 Q. And this could have been implemented in 204:19 2005? Boggs, Gary 01-17-2019 (00:00:11)	GB09.75
205:06 - 205:08	204:23 A. I don't -- I don't know that there 204:24 wasn't governance at that point in time. It may 205:1 not have been called the same thing or whatever, 205:2 or whether or not there was senior executives 205:3 overseeing or not, I -- I don't know. 205:4 Q. I didn't ask you whether you knew 205:5 whether that existed. Boggs, Gary 01-17-2019 (00:00:09)	GB09.76
205:10 - 205:16	205:6 My question is, would that be something 205:7 that would be feasible to have been created at a 205:8 company like McKesson in 2005, for example? Boggs, Gary 01-17-2019 (00:00:09)	GB09.77
205:18 - 205:18	205:10 THE WITNESS: I'm not sure that it 205:11 wasn't done -- 205:12 BY MR. HAWAL: 205:13 Q. I didn't ask you -- I'm asking you if it 205:14 was feasible to have created such a program if it 205:15 hadn't been in place. 205:16 A. If it did -- Boggs, Gary 01-17-2019 (00:00:00)	GB09.78
205:20 - 205:22	205:18 THE WITNESS: -- yes. Boggs, Gary 01-17-2019 (00:00:02)	GB09.79
205:24 - 206:10	205:20 Q. If it -- 205:21 THE REPORTER: Excuse me. We're talking 205:22 at the same time. Boggs, Gary 01-17-2019 (00:00:26)	GB09.80
	205:24 Q. In 2000, would it be feasible? 206:1 A. Yes. 206:2 Q. The next thing you mention is a larger 206:3 and experienced regulatory team. What does that 206:4 mean? 206:5 A. We expanded the number of people on our 206:6 team. We brought in different experience,	

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206:7	expertise and skill sets to our team as we evolved	
206:8	our program.	
206:9	Q. And that would have been feasible in	
206:10	2000 and in 2005?	
206:12 - 207:02	Boggs, Gary 01-17-2019 (00:00:39)	GB09.81
206:12	THE WITNESS: I believe it could have	
206:13	been, yes.	
206:14	BY MR. HAWAL:	
206:15	Q. Why did you create a larger and more	
206:16	experienced regulatory team after you came on	
206:17	board to McKesson?	
206:18	A. Our -- our program and the policies and	
206:19	procedures and the due diligence reviews that we	
206:20	conduct on our customers expanded and was more	
206:21	in-depth. It required a larger team to do that.	
206:22	Q. Okay. The next point you made to the	
206:23	Attorney General was oversight and strong	
206:24	leadership by senior diversion experts.	
207:1	Anything particularly stand out as far	
207:2	as what change was made in that regard?	
207:04 - 207:08	Boggs, Gary 01-17-2019 (00:00:07)	GB09.82
207:4	THE WITNESS: Nothing stands out about	
207:5	that, no.	
207:6	BY MR. HAWAL:	
207:7	Q. That's something that could have been	
207:8	done in 2000 and 2005, true?	
207:10 - 208:04	Boggs, Gary 01-17-2019 (00:00:58)	GB09.83
207:10	THE WITNESS: That's true.	
207:11	BY MR. HAWAL:	
207:12	Q. The next thing you mention is a	
207:13	comprehensive diligence of new and existing	
207:14	customers. Right?	
207:15	A. Yes.	
207:16	Q. And what -- what did that -- what does	
207:17	that mean? How -- how was that changed from what	
207:18	it had been to now you have a comprehensive	
207:19	diligence of new and existing customers?	
207:20	A. We do a more in-depth review of the	
207:21	customers in terms of expanded questions that we	
207:22	ask the customers. More frequent -- at -- more	

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207:23	frequently we ask them to provide data to us to	
207:24	help us review that customer. We conduct some	
208:1	more open source datasets to look at anything that	
208:2	may be on the internet or OIG database to look	
208:3	into that, whether or not any sanctions have been	
208:4	there. We leverage various other data sources.	
208:05 - 208:06	Boggs, Gary 01-17-2019 (00:00:04)	GB09.84
208:5	Q. And that's again something that could	
208:6	have been done in 2000, 2005?	
208:08 - 208:12	Boggs, Gary 01-17-2019 (00:00:12)	GB09.85
208:8	THE WITNESS: Actually, some of that may	
208:9	not have been available back then. Some of the	
208:10	dataset or data things, they may not have been	
208:11	available. We use software that's available today	
208:12	that wasn't available back then.	
208:14 - 208:17	Boggs, Gary 01-17-2019 (00:00:11)	GB09.86
208:14	Q. Well, in a general sense, the more	
208:15	comprehensive diligence of new and existing	
208:16	customers is something that could have been done	
208:17	in multiple different ways. True?	
208:19 - 209:06	Boggs, Gary 01-17-2019 (00:00:22)	GB09.87
208:19	THE WITNESS: It could be. It's just	
208:20	what we use today, some of the tools that are	
208:21	available to us today to do that were not	
208:22	available, you know, 20 years ago.	
208:23	BY MR. HAWAL:	
208:24	Q. And then you go on to say now you have a	
209:1	rigorous threshold change request approval	
209:2	process, right?	
209:3	A. That's correct.	
209:4	Q. And how -- how has it changed to become	
209:5	a rigorous threshold change request approval	
209:6	process?	
209:09 - 209:22	Boggs, Gary 01-17-2019 (00:00:30)	GB09.88
209:9	THE WITNESS: What we do is we take the	
209:10	opportunity of a threshold change request to not	
209:11	just look at the request but to refresh the due	
209:12	diligence review of that customer, to review the	
209:13	licensure of the staff at, say, a pharmacy, the	
209:14	pharmacists and the technicians to see whether or	

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	209:15 not they have any disciplinary action that may 209:16 have occurred since the first time we did that. 209:17 So those are -- those are some of the things that 209:18 we do. 209:19 BY MR. HAWAL: 209:20 Q. Again, something that could have been 209:21 done in 2000 and 2005, right? 209:22 A. That's correct.	
210:07 - 210:16	Boggs, Gary 01-17-2019 (00:00:32) 210:7 Q. A rigorous threshold change request 210:8 approval process would encompass making sure that 210:9 the customer has legitimate business reasons for 210:10 requesting a threshold increase? 210:11 A. That would be part of it, yes. 210:12 Q. And in fact, as you know from your work 210:13 at McKesson, that is something that was supposed 210:14 to have been done at McKesson before a threshold 210:15 change increase was made going back to 2007, 2006 210:16 time frame, true?	GB09.89
210:18 - 210:22	Boggs, Gary 01-17-2019 (00:00:05) 210:18 THE WITNESS: I don't know if it wasn't 210:19 done back then or not. 210:20 BY MR. HAWAL: 210:21 Q. I didn't ask you that, sir. Was it 210:22 supposed to have been done?	GB09.90
210:24 - 211:01	Boggs, Gary 01-17-2019 (00:00:04) 210:24 THE WITNESS: It was part of the review 211:1 process, yes.	GB09.91
211:03 - 212:07	Boggs, Gary 01-17-2019 (00:01:26) 211:3 Q. And sophisticated analytical tools, 211:4 you're talking about the algorithms that we 211:5 briefly touched on before there? 211:6 A. Not in that context, no. 211:7 Q. All right. What is the sophisticated 211:8 analytical tools? What are you referring to 211:9 there? 211:10 A. We leverage a software system, and this 211:11 is an example of one that's available today that 211:12 wasn't available before, is Tableau software where 211:13 it's a very powerful tool, and we put data by	GB09.92

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	<p>211:14 purchasing history from our customers in it, and</p> <p>211:15 it's able to provide some analytical --</p> <p>211:16 Q. Well, give me an example, if you would,</p> <p>211:17 please. Here you say you put in your customers'</p> <p>211:18 purchase history or information. What -- what</p> <p>211:19 kind of information is generated to you that you</p> <p>211:20 find to be useful for diversion control from that</p> <p>211:21 program?</p> <p>211:22 A. It allows us to graphically look at</p> <p>211:23 purchases of a particular base code over a trend</p> <p>211:24 over a month period -- or months to see if there's</p> <p>212:1 any trend in that. It shows percentages of</p> <p>212:2 non-controlled purchases to controlled purchases,</p> <p>212:3 different analytical things like that.</p> <p>212:4 Q. That's -- that's information that could</p> <p>212:5 have been generated and analyzed back in 2000 and</p> <p>212:6 2005, perhaps not with the same software but in</p> <p>212:7 some fashion, true?</p>	
212:09 - 212:11	Boggs, Gary 01-17-2019 (00:00:05)	GB09.93
	<p>212:9 THE WITNESS: Probably in some fashion,</p> <p>212:10 just not with the robust ability that -- as that</p> <p>212:11 software affords us.</p>	
212:20 - 213:10	Boggs, Gary 01-17-2019 (00:00:40)	GB09.94
	<p>212:20 Q. And then you say: "Improved education</p> <p>212:21 and training." Right?</p> <p>212:22 A. Yes.</p> <p>212:23 Q. And improved education and training</p> <p>212:24 about diversion control and effective mechanisms</p> <p>213:1 to look for it and -- and deal with it?</p> <p>213:2 A. This is probably a little bit more</p> <p>213:3 all-encompassing. It's internal training and</p> <p>213:4 education, it's external training and education.</p> <p>213:5 We provide training and education to our customers</p> <p>213:6 about trends, about other evolving regulations</p> <p>213:7 that might -- might be evolved within that would</p> <p>213:8 impact our program or their ability --</p> <p>213:9 Q. And that -- that could have been done in</p> <p>213:10 2000 and 2005, true?</p>	
213:12 - 213:12	Boggs, Gary 01-17-2019 (00:00:01)	GB09.95
	213:12 THE WITNESS: That's true.	

GB09-Boggs, Gary - Plaintiff's Submission

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213:18 - 214:05	Boggs, Gary 01-17-2019 (00:00:41) 213:18 Q. Slide 28 identifies under the heading of 213:19 "Purpose and General Guidance," "McKesson has a 213:20 legal obligation to provide effective controls to 213:21 guard against theft and diversion of controlled 213:22 substances, and to design and operate a system to 213:23 identify suspicious orders of controlled 213:24 substances. As part of McKesson's Controlled 214:1 Substance Monitoring Program (CSMP), McKesson 214:2 conducts regulatory investigative assessments of 214:3 its customers." 214:4 That is an obligation that has existed 214:5 with McKesson going back to 1970. True?	GB09.96
214:07 - 214:20	Boggs, Gary 01-17-2019 (00:00:41) 214:7 THE WITNESS: That's true. 214:8 BY MR. HAWAL: 214:9 Q. And then you say: "Assessments" -- the 214:10 last paragraph -- "Assessments are regulatory in 214:11 nature and should not be influenced by the 214:12 customer's overall sales volume, profitability or 214:13 strategic importance to the company." Right? 214:14 A. That's correct. 214:15 Q. In other words, large chains that 214:16 provide McKesson with billions of dollars in -- in 214:17 sales and profits should not be afforded any 214:18 additional latitude than one would expect of a 214:19 small retail pharmacy in terms of diversion 214:20 control issues.	GB09.97
214:22 - 214:23	Boggs, Gary 01-17-2019 (00:00:01) 214:22 BY MR. HAWAL: 214:23 Q. Fair?	GB09.98
215:02 - 215:18	Boggs, Gary 01-17-2019 (00:00:47) 215:2 THE WITNESS: That -- that's correct. 215:3 BY MR. HAWAL: 215:4 Q. And then to the right, you have: 215:5 "Thorough customer diligence review is completed 215:6 for new customer onboarding, threshold change 215:7 requests, proactive reviews, and event triggers -- 215:8 triggered reviews. Every diligence review is 215:9 documented. Reports kept in customer due	GB09.99

GB09-Boggs, Gary - Plaintiff's Submission

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	215:10 diligence files."	
	215:11 Those are the steps that your company	
	215:12 takes or should take with regard to performing due	
	215:13 diligence reviews of customers?	
	215:14 A. They're steps that we take in our	
	215:15 program.	
	215:16 Q. How long has it been the practice of	
	215:17 McKesson to document diligent -- due diligence	
	215:18 reviews of customers?	
215:20 - 216:02	Boggs, Gary 01-17-2019 (00:00:13)	GB09.100
	215:20 THE WITNESS: I believe there was	
	215:21 documentation before I came.	
	215:22 BY MR. HAWAL:	
	215:23 Q. Is it your understanding that that was	
	215:24 something that should have been done -- that was	
	216:1 done or should have been done going back to 2005,	
	216:2 for example?	
216:04 - 216:10	Boggs, Gary 01-17-2019 (00:00:12)	GB09.101
	216:4 THE WITNESS: I -- it could -- should	
	216:5 have been documented, yes.	
	216:6 BY MR. HAWAL:	
	216:7 Q. And then you have "Reports kept in	
	216:8 customer due diligence files," that would likewise	
	216:9 be something that should have been done going back	
	216:10 to 2005?	
216:12 - 216:13	Boggs, Gary 01-17-2019 (00:00:01)	GB09.102
	216:12 BY MR. HAWAL:	
	216:13 Q. At least?	
216:15 - 216:18	Boggs, Gary 01-17-2019 (00:00:10)	GB09.103
	216:15 THE WITNESS: I would agree with that,	
	216:16 yes.	
	216:17 BY MR. HAWAL:	
	216:18 Q. Let's go to slide 38.	
216:19 - 216:23	Boggs, Gary 01-17-2019 (00:00:16)	GB09.104
	216:19 The last bullet point says: "Orders	
	216:20 that exceed monthly threshold are blocked and not	
	216:21 shipped to the customer."	
	216:22 When was that process or policy	
	216:23 implemented at McKesson?	
217:01 - 217:05	Boggs, Gary 01-17-2019 (00:00:10)	GB09.105

GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
217:07 - 217:14	<p>217:1 THE WITNESS: I assume they were 217:2 blocking shipments before I came to the company. 217:3 BY MR. HAWAL: 217:4 Q. Again, something that you would have 217:5 expected to be done back to 2005, at least?</p> <p>Boggs, Gary 01-17-2019 (00:00:18)</p> <p>217:7 THE WITNESS: As far as I know, it was 217:8 being done then, yeah. 217:9 BY MR. HAWAL: 217:10 Q. Yeah. When you say "it was being done," 217:11 have you gone back to make sure that every 217:12 threshold -- every order that exceeded the monthly 217:13 threshold that was blocked was not shipped to the 217:14 customer?</p>	GB09.106
217:17 - 217:20	<p>Boggs, Gary 01-17-2019 (00:00:04)</p> <p>217:17 BY MR. HAWAL: 217:18 Q. Have you gone back to make that 217:19 determination? 217:20 A. I did -- I have not.</p>	GB09.107
223:09 - 223:12	<p>Boggs, Gary 01-17-2019 (00:00:11)</p> <p>223:9 Q. Have you or anyone else at McKesson made 223:10 any effort to compare how many due diligence files 223:11 or investigations exist before 2014 in comparison 223:12 to how many should exist?</p>	GB09.108
223:14 - 223:20	<p>Boggs, Gary 01-17-2019 (00:00:29)</p> <p>223:14 THE WITNESS: I've not conducted that, 223:15 and I'm not aware that anyone else has. 223:16 BY MR. HAWAL: 223:17 Q. Have you or anyone else at McKesson gone 223:18 back to determine how many threshold increases 223:19 done by McKesson did not have a legitimate 223:20 business justification or diligence documentation?</p>	GB09.109
223:22 - 223:23	<p>Boggs, Gary 01-17-2019 (00:00:04)</p> <p>223:22 THE WITNESS: I have not done that, and 223:23 I'm not aware of anyone else doing it.</p>	GB09.110
225:04 - 225:07	<p>Boggs, Gary 01-17-2019 (00:00:10)</p> <p>225:4 Q. And do you agree that McKesson takes 225:5 great care in setting thresholds, or should? 225:6 A. I -- McKesson does take great care in 225:7 setting thresholds.</p>	GB09.111

GB09-Boggs, Gary - Plaintiff's Submission

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259:07 - 259:09	Boggs, Gary 01-17-2019 (00:00:18) 259:7 Q. Mr. Boggs, I'm going to hand you what we 259:8 previously marked at your earlier deposition as 259:9 Exhibit 6, MCKMDL00407451.	GB09.112
259:12 - 259:14	Boggs, Gary 01-17-2019 (00:00:06) 259:12 BY MR. HAWAL: 259:13 Q. And we're going to mark it as Exhibit 28 259:14 for your deposition today.	GB09.113
259:17 - 259:20	Boggs, Gary 01-17-2019 (00:00:08) 259:17 BY MR. HAWAL: 259:18 Q. You're familiar with the term 259:19 "diversion," "drug diversion"? 259:20 A. I am.	GB09.114
259:23 - 260:08	Boggs, Gary 01-17-2019 (00:00:32) 259:23 Are you familiar with the term "drug 259:24 migration" as it relates to diversion? 260:1 A. I am. 260:2 Q. In other words, drugs that find their 260:3 way into the illegal distribution system in a 260:4 given community will not remain in that community; 260:5 they will -- some of those drugs will migrate to 260:6 adjacent communities and even different states. 260:7 Is that a fair statement as to what drug migration 260:8 refers to?	GB09.115
260:10 - 260:10	Boggs, Gary 01-17-2019 (00:00:01) 260:10 THE WITNESS: I agree with that.	GB09.116
260:23 - 261:08	Boggs, Gary 01-17-2019 (00:00:38) 260:23 Q. on page 465 of the -- this 260:24 is a PowerPoint that you created; is that correct? 261:1 A. I believe so, yes. 261:2 Q. And on page 465 of this PowerPoint, 261:3 there is a map of the United States, and the title 261:4 is "Drug Diversion Migration Out of Florida," and 261:5 it has a series of arrows. 261:6 Is that intended to show where drugs 261:7 that were being diverted in Florida were finding 261:8 their way to different parts of the country?	GB09.117
261:10 - 261:22	Boggs, Gary 01-17-2019 (00:00:36) 261:10 THE WITNESS: What this is depicting is 261:11 the criminal schemes of pill mills in Florida, and	GB09.118

GB09-Boggs, Gary - Plaintiff's Submission

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	261:12 where those that were complicit in that criminal 261:13 scheme would -- would take those, you know, out of 261:14 Florida and into other locations throughout the 261:15 United States. 261:16 BY MR. HAWAL: 261:17 Q. And sell them in communities in Georgia, 261:18 Tennessee, Kentucky, Ohio, and Missouri? 261:19 A. That could be. 261:20 Q. And I take it this was based upon 261:21 information that you either researched or had 261:22 knowledge about?	
262:01 - 262:01	Boggs, Gary 01-17-2019 (00:00:01)	GB09.119
	262:1 THE WITNESS: It is.	
262:04 - 262:12	Boggs, Gary 01-17-2019 (00:00:36)	GB09.120
	262:4 BY MR. HAWAL: 262:5 Q. The last exhibit I'm going to have 262:6 marked and ask you about is Exhibit No. 29. 262:7 And although it is an Insys document and 262:8 the Bates number is INSYS_MDL006972647, it is a 262:9 communication from John Bonner, director of 262:10 Product Management, Branded Rx, at McKesson Drug 262:11 in San Francisco. 262:12 Do you know John Bonner?	
262:13 - 262:17	Boggs, Gary 01-17-2019 (00:00:18)	GB09.121
	262:13 A. I -- I do not. 262:14 Q. In any event, Mr. Bonner apparently, 262:15 according to the first sentence of his e-mail, 262:16 says: "The enemy here is the DEA." You see that? 262:17 A. I do.	
263:06 - 263:09	Boggs, Gary 01-17-2019 (00:00:13)	GB09.122
	263:6 Q. Does it trouble you as a former DEA 263:7 agent that certain employees of McKesson -- or at 263:8 least this employee of McKesson considers DEA the 263:9 enemy?	
263:11 - 263:11	Boggs, Gary 01-17-2019 (00:00:01)	GB09.123
	263:11 THE WITNESS: It does.	
263:13 - 263:19	Boggs, Gary 01-17-2019 (00:00:24)	GB09.124
	263:13 Q. Has that been some experience that 263:14 you've come to understand, that certain 263:15 manufacturers and distributors have considered the	

GB09-Boggs, Gary - Plaintiff's Submission

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263:16	DEA the enemy because of administrative	
263:17	proceedings that the DEA has decided -- and the	
263:18	Department of Justice has decided to bring for	
263:19	violations of the Controlled Substances Act?	
264:02 - 264:04	Boggs, Gary 01-17-2019 (00:00:04)	GB09.125
264:2	THE WITNESS: This is -- since I've been	
264:3	at McKesson, this is the first time I've seen	
264:4	anything like -- like this.	
266:13 - 266:18	Boggs, Gary 01-17-2019 (00:00:10)	GB09.126
266:13	Q. Mr. Boggs, good afternoon. My name is	
266:14	Troy Rafferty. I'm representing the plaintiffs in	
266:15	this case along with Mr. Hawal. I'm going to ask	
266:16	you some additional questions here for a bit,	
266:17	okay?	
266:18	A. Sure.	
267:02 - 267:10	Boggs, Gary 01-17-2019 (00:00:26)	GB09.127
267:2	Q. You were just being asked some questions	
267:3	about a bill that was passed in 2016 by Mr. Hawal.	
267:4	Are you familiar with that?	
267:5	A. I am.	
267:6	Q. In fact, you have been of the opinion	
267:7	for several years, dating back even to your time	
267:8	at the DEA, that the distributors of opioids and	
267:9	narcotics had basically blown off the DEA.	
267:10	Correct?	
267:12 - 267:13	Boggs, Gary 01-17-2019 (00:00:04)	GB09.128
267:12	THE WITNESS: I don't know if I would	
267:13	necessarily characterize it that in its entirety.	
268:08 - 269:23	Boggs, Gary 01-17-2019 (00:01:43)	GB09.129
268:8	Q. Two -- 1.2033. And this is	
268:9	Bates-numbered MCKMDL00661483.	
268:10	I'm going to direct your attention to	
268:11	the middle e-mail. That's the one I'm going to	
268:12	ask you about, Mr. Boggs.	
268:13	Do you know who Ann Berkey is?	
268:14	A. She used to be employed by McKesson. I	
268:15	don't believe she's any longer employed by	
268:16	McKesson.	
268:17	Q. You had conversations with her in the	
268:18	past about your time at the DEA and your	

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268:19 impressions of the -- of the interaction between

268:20 the distributors and DEA, correct?

268:21 A. I don't know that I had multiple

268:22 conversations with her. I -- I recall a

268:23 conversation.

268:24 Q. Okay. Well, let's take a look at what

269:1 Ms. Berkey says here in this e-mail dated April 8,

269:2 2014. You were at -- at McKesson at that time,

269:3 correct?

269:4 A. I was.

269:5 Q. And here it says -- she's sending it to

269:6 several people, and she says: "A couple of

269:7 updates since my message yesterday on this. I met

269:8 today with Gary Boggs, the new senior director of

269:9 Regulatory Affairs for U.S. pharma for the East,

269:10 of the Mississippi River that is, who is based in

269:11 Livonia. He is a former top official with the

269:12 DEA, and we talked extensively about this bill,

269:13 the hearing, ways we can work with the Agency, et

269:14 cetera. He outlined in some detail the processes

269:15 that DEA has had in place for years to collaborate

269:16 with wholesalers and the way in which our

269:17 industry, CAH especially, has blown them off, to

269:18 the point that the DEA is now hammering all of

269:19 us."

269:20 Do you see that?

269:21 A. I do.

269:22 Q. Do you recall that conversation with

269:23 Ms. Berkey?

270:01 - 270:01 **Boggs, Gary 01-17-2019 (00:00:01)**

GB09.130

270:1 THE WITNESS: Just in general, yes.

270:03 - 270:05 **Boggs, Gary 01-17-2019 (00:00:04)**

GB09.131

270:3 Q. In general? Do you recall making that

270:4 statement?

270:5 A. I don't believe that's a quote.

270:16 - 270:18 **Boggs, Gary 01-17-2019 (00:00:07)**

GB09.132

270:16 A. Not that I recall in that context. We

270:17 discussed the situation, we discussed different

270:18 things about that and --

270:19 - 271:05 **Boggs, Gary 01-17-2019 (00:00:23)**

GB09.133

GB09-Boggs, Gary - Plaintiff's Submission

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	270:19 Q. Well, "CAH especially," that's Cardinal 270:20 Health, correct? 270:21 A. That's correct. 270:22 Q. Okay. And a distributor of narcotics 270:23 just like McKesson, right? 270:24 A. That's correct. 271:1 Q. Okay. And, in fact, it says here that 271:2 you outlined in some detail the processes that the 271:3 DEA has had in place for years to collaborate with 271:4 wholesalers. Do you see that? 271:5 A. I do.	
271:20 - 272:03	Boggs, Gary 01-17-2019 (00:00:21) 271:20 Q. So you were -- at least in 2014, you 271:21 were sharing information from your time at DEA 271:22 with employees of McKesson. True? 271:23 A. In -- in generalities, yes. 271:24 Q. Okay. Including how -- how the DEA had 272:1 processes in place to collaborate with the 272:2 wholesalers, correct? 272:3 A. That's correct.	GB09.134
272:10 - 272:12	Boggs, Gary 01-17-2019 (00:00:07) 272:10 Q. All right. Are you familiar with DU45 272:11 reports, Mr. Boggs? 272:12 A. Yes, a little bit. Yes.	GB09.135
277:09 - 277:10	Boggs, Gary 01-17-2019 (00:00:05) 277:9 Q. And have you heard the DU45 referred to 277:10 as excessive purchase reports?	GB09.136
277:12 - 277:12	Boggs, Gary 01-17-2019 (00:00:01) 277:12 THE WITNESS: I have.	GB09.137
278:12 - 278:15	Boggs, Gary 01-17-2019 (00:00:08) 278:12 Q. And is it your -- was it your under- -- 278:13 is it your understanding that these DU45s were 278:14 actually suspicious -- were suspicious order 278:15 reports?	GB09.138
278:17 - 278:19	Boggs, Gary 01-17-2019 (00:00:04) 278:17 THE WITNESS: It's my understanding 278:18 that's what McKesson was submitting, yes, 278:19 suspicious order reports.	GB09.139
278:21 - 278:22	Boggs, Gary 01-17-2019 (00:00:03) 278:21 Q. And that was the DU45?	GB09.140

GB09-Boggs, Gary - Plaintiff's Submission

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281:03 - 281:07	<p>278:22 A. Yes.</p> <p>Boggs, Gary 01-17-2019 (00:00:10)</p> <p>281:3 Q. Well, do you know if McKesson still</p> <p>281:4 submits DU45 reports to the DEA?</p> <p>281:5 A. We submit suspicious order reports to</p> <p>281:6 the DEA, and we submit ARCOS reports to the DEA.</p> <p>281:7 That's what we submit.</p>	GB09.141
291:07 - 291:14	<p>Boggs, Gary 01-17-2019 (00:00:18)</p> <p>291:7 Q. And you would agree that simply -- for</p> <p>291:8 example, today, if you were just submitting this</p> <p>291:9 report that showed that sales went over a</p> <p>291:10 particular threshold and nothing more, and no due</p> <p>291:11 diligence was done and there were no omit reports</p> <p>291:12 or no blocked orders, that wouldn't be satisfying</p> <p>291:13 your obligations under the Controlled Substances</p> <p>291:14 Act, correct?</p>	GB09.142
291:16 - 291:20	<p>Boggs, Gary 01-17-2019 (00:00:07)</p> <p>291:16 THE WITNESS: It depends on which</p> <p>291:17 obligation you're referring to.</p> <p>291:18 BY MR. RAFFERTY:</p> <p>291:19 Q. The obligation to effect -- to maintain</p> <p>291:20 effective controls against diversion.</p>	GB09.143
291:22 - 291:23	<p>Boggs, Gary 01-17-2019 (00:00:02)</p> <p>291:22 THE WITNESS: I would agree with that</p> <p>291:23 statement, yes.</p>	GB09.144
293:03 - 293:07	<p>Boggs, Gary 01-17-2019 (00:00:12)</p> <p>293:3 Q. Now, you -- you agree with me that not</p> <p>293:4 only must -- speaking of today, while you're here</p> <p>293:5 at -- since you've been at McKesson, you would</p> <p>293:6 agree that you have an obligation not to just</p> <p>293:7 report but also to block suspicious orders --</p>	GB09.145
293:10 - 293:12	<p>Boggs, Gary 01-17-2019 (00:00:06)</p> <p>293:10 Q. -- and then perform due diligence on</p> <p>293:11 those to determine whether or not they're likely</p> <p>293:12 to be diverted to illegal uses, correct?</p>	GB09.146
293:17 - 293:23	<p>Boggs, Gary 01-17-2019 (00:00:07)</p> <p>293:17 THE WITNESS: A regulatory obligation?</p> <p>293:18 BY MR. RAFFERTY:</p> <p>293:19 Q. Yes.</p> <p>293:20 A. No, I don't agree with that at all.</p>	GB09.147

GB09-Boggs, Gary - Plaintiff's Submission

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	293:21 Q. You don't agree with that.	
	293:22 A. I don't know anywhere in the regulation	
	293:23 that that's a requirement.	
321:17 - 321:23	Boggs, Gary 01-17-2019 (00:00:16)	GB09.148
	321:17 Q. Okay. So looking at 1433 -- I'm sorry,	
	321:18 looking at Exhibit 38, this is a letter from the	
	321:19 Department of Justice to the DEA dated	
	321:20 November 4th, 2014.	
	321:21 Do you see that?	
	321:22 A. I believe it's from the Drug Enforcement	
	321:23 Administration, but, yes, I see that.	
322:04 - 322:12	Boggs, Gary 01-17-2019 (00:00:33)	GB09.149
	322:4 Q. Okay. And in fact, if we look at this,	
	322:5 and we look at the -- it says -- if we look at	
	322:6 page .2, it says: "We remain" -- the third full	
	322:7 paragraph, sir.	
	322:8 "That having been said, we remain	
	322:9 concerned that McKesson fails to appreciate the	
	322:10 serious and systemic nature of the CSA-related	
	322:11 problems that DEA has observed in its several	
	322:12 investigations into your client's operations."	
323:14 - 324:18	Boggs, Gary 01-17-2019 (00:01:05)	GB09.150
	323:14 THE WITNESS: I see that.	
	323:15 BY MR. RAFFERTY:	
	323:16 Q. Okay. In fact, it looks at McKesson	
	323:17 Aurora. It says: "Lacked a functional suspicious	
	323:18 order reporting system for approximately five	
	323:19 years," in that last full paragraph on page 2.	
	323:20 It says: "McKesson Aurora reported a	
	323:21 total of 16 orders as suspicious (in one batch,	
	323:22 occurring in one quarter, related to one recently	
	323:23 terminated pharmacy), while it processed a total	
	323:24 of 1.6 million orders for controlled substances	
	324:1 from 2008 through 2012."	
	324:2 Do you see that?	
	324:3 A. I do.	
	324:4 Q. And then if we go to the next page:	
	324:5 "McKesson's distribution center in Livonia	
	324:6 reported no suspicious" -- it says at the top --	
	324:7 "reported no suspicious orders for approximately	

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	324:8 five years after McKesson's settlement with the 324:9 DOJ."	
	324:10 You know that was in 2008, correct, the 324:11 settlement?	
	324:12 A. I do.	
	324:13 Q. Okay. So there's five years.	
	324:14 And then it goes on in the next full 324:15 paragraph: "Washington Court House, Ohio. Here 324:16 again, McKesson did not report any orders as 324:17 suspicious for years after the settlement with DOJ 324:18 and DEA." Do you see that?	
324:20 - 324:20	Boggs, Gary 01-17-2019 (00:00:01)	GB09.151
	324:20 THE WITNESS: I do.	
324:22 - 325:13	Boggs, Gary 01-17-2019 (00:00:37)	GB09.152
	324:22 Q. And then going on to McKesson's 324:23 Lakeland, the next paragraph on page 4, McKesson's 324:24 distribution system, it says: "Once again, in 325:1 derogation of its responsibilities under the CSA 325:2 and the 2008 MOA, McKesson Lakeland failed to 325:3 report suspicious orders to the DEA for a 325:4 five-year period." 325:5 Do you see that?	
	325:6 A. I do.	
	325:7 Q. And then going down, McKesson in 325:8 Methume -- Methuen, Massachusetts, in the next 325:9 paragraph: "As with other distribution centers 325:10 McKesson operated, McKesson failed to report any 325:11 suspicious orders from May 2008 through November 325:12 2013." Do you see that?	
	325:13 A. I do.	
326:04 - 326:08	Boggs, Gary 01-17-2019 (00:00:10)	GB09.153
	326:4 Q. According to that document. That 326:5 would -- that would basic- -- that would indicate 326:6 a systemic and nationwide failure on McKesson's 326:7 part during that time period. You would agree 326:8 with that, right?	
326:11 - 326:12	Boggs, Gary 01-17-2019 (00:00:04)	GB09.154
	326:11 THE WITNESS: It's an issue that needed 326:12 to be addressed, yes.	
387:23 - 389:01	Boggs, Gary 01-17-2019 (00:01:17)	GB09.155

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387:23 Well, I heard you say that a company
 387:24 like McKesson cannot prevent all diversion. Is
 388:1 that -- is that correct?
 388:2 A. That's correct.
 388:3 Q. Would you agree, though, that
 388:4 wholesalers like McKesson can play an important
 388:5 role in preventing diversion?
 388:6 A. I would.
 388:7 Q. Now, you were asked, and I believe you
 388:8 testified, that since you've been at McKesson,
 388:9 you've never seen anything to suggest that -- that
 388:10 McKesson contributed to the opioid epidemic.
 388:11 Is that a fair statement of what you
 388:12 testified to?
 388:13 A. It is.
 388:14 Q. I want to take you back to Exhibit 38.
 388:15 MR. HAWAL: If Evan can bring it up.
 388:16 BY MR. HAWAL:
 388:17 Q. Which is the November 4th, 2014 letter
 388:18 from the DEA to Geoffrey Hobart of Covington &
 388:19 Burling. Do you recall that Mr. Rafferty asked
 388:20 you about this letter?
 388:21 A. I believe so, yes.
 388:22 Q. In fact, Covington & Burling is the law
 388:23 firm that represents McKesson and has its counsel
 388:24 seated directly to your left representing you in
 389:1 this deposition?

389:03 - 389:13

Boggs, Gary 01-17-2019 (00:00:35)

GB09.156

389:3 THE WITNESS: That's correct.
 389:4 BY MR. HAWAL:
 389:5 Q. And according to this DEA letter, in the
 389:6 first paragraph it says: "As a result of
 389:7 McKesson's failure to maintain effective controls
 389:8 against diversion of particular controlled
 389:9 substances and to design and operate a system to
 389:10 disclose to the registrants suspicious orders of
 389:11 controlled substances," that this administrative
 389:12 action was being taken against McKesson.
 389:13 That's the conclusion of the DEA?

389:15 - 390:02

Boggs, Gary 01-17-2019 (00:00:25)

GB09.157

GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
	389:15 THE WITNESS: I believe that's the case, 389:16 yes. 389:17 BY MR. HAWAL: 389:18 Q. And you disagree with that? 389:19 A. With what? 389:20 Q. That McKesson had failed to maintain 389:21 effective controls against diversion of particular 389:22 controlled substances and failed to design and 389:23 operate a system to disclose to the registrant 389:24 suspicious orders of controlled substances. Do 390:1 you disagree with that? 390:2 A. I don't, no.	
392:15 - 393:05	Boggs, Gary 01-17-2019 (00:00:41) 392:15 Q. And then in the second -- next paragraph 392:16 down, it says: "McKesson's systemic failures were 392:17 also evident at its distribution center in 392:18 Washington Court House where McKesson did not 392:19 report any orders as suspicious for years after 392:20 the 2008 settlement with DOJ and DEA. McKesson's 392:21 regional director of Regulatory Affairs told DEA 392:22 investigators that he did not know what a 392:23 suspicious order was." 392:24 Did I read that correctly? 393:1 A. You did. 393:2 Q. Does that concern you that a regional 393:3 director of Regulatory Affairs would have told the 393:4 DEA that he does not know what a suspicious order 393:5 was?	GB09.158
393:07 - 393:11	Boggs, Gary 01-17-2019 (00:00:04) 393:7 THE WITNESS: That would cause me a 393:8 concern, yes. 393:9 BY MR. HAWAL: 393:10 Q. That's -- that would be incomprehensible 393:11 to you, wouldn't it?	GB09.159
393:13 - 393:24	Boggs, Gary 01-17-2019 (00:00:29) 393:13 THE WITNESS: It would be something of 393:14 concern, yes. 393:15 BY MR. HAWAL: 393:16 Q. All right. And then if we go farther 393:17 down, it says: "McKesson WCH," Washington Court	GB09.160

GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
	393:18 House, "did not report anything suspicious about 393:19 Community Drug of Manchester, Kentucky, a pharmacy 393:20 located in a town of less than 1,000 adult 393:21 residents, ordering 20,000 to almost 50,000 dosage 393:22 units of oxycodone products on a monthly basis in 393:23 2011." 393:24 Another concern?	
394:02 - 394:14	Boggs, Gary 01-17-2019 (00:00:33) 394:2 THE WITNESS: It would be a concern, 394:3 yes. 394:4 BY MR. HAWAL: 394:5 Q. And then it goes on to say: "Even after 394:6 McKesson Washington Court House was aware that 394:7 this pharmacy was under investigation, it 394:8 continued to supply it with controlled substances 394:9 while apologizing for having to reduce thresholds 394:10 and promising to," quote, "bump up," close quote, 394:11 "those thresholds as soon as they could justify 394:12 doing so." 394:13 Sir, is that an incomprehensible concern 394:14 as you sit here and see that?	GB09.161
394:16 - 394:17	Boggs, Gary 01-17-2019 (00:00:02) 394:16 THE WITNESS: It's definitely a concern, 394:17 yes.	GB09.162
395:03 - 395:08	Boggs, Gary 01-17-2019 (00:00:18) 395:3 Q. And what would be the -- what would be 395:4 the legitimate business rationale for bumping up 395:5 thresholds as soon as they could justify doing so 395:6 in the face of what is stated here? Can you come 395:7 up with one? 395:8 A. Not off --	GB09.163
395:11 - 395:12	Boggs, Gary 01-17-2019 (00:00:03) 395:11 Q. I'm sorry, I didn't hear you. 395:12 A. Not off the top of my head, I can't, no.	GB09.164
396:11 - 396:16	Boggs, Gary 01-17-2019 (00:00:21) 396:11 Q. You're aware, as we discussed earlier, 396:12 that McKesson ended up paying a \$150 million fine 396:13 or penalty as a result of these types of 396:14 administrative proceedings that were initiated 396:15 against it by the Department of Justice and the	GB09.165

GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
396:19 - 396:19	396:16 DEA -- Boggs, Gary 01-17-2019 (00:00:00)	GB09.166
396:21 - 397:02	396:19 Q. -- right? Boggs, Gary 01-17-2019 (00:00:11) 396:21 THE WITNESS: The \$150 million fine 396:22 would be associated for not reporting suspicious 396:23 orders. 396:24 BY MR. HAWAL: 397:1 Q. And that's exactly what it wasn't doing 397:2 in these examples, right?	GB09.167
397:04 - 397:09	Boggs, Gary 01-17-2019 (00:00:08) 397:4 THE WITNESS: According to the document, 397:5 that's correct, yes. 397:6 BY MR. HAWAL: 397:7 Q. Which you have no basis to refute as you 397:8 sit here today, right? 397:9 A. I do not.	GB09.168
404:01 - 404:04	Boggs, Gary 01-17-2019 (00:00:07) 404:1 Q. Did you say that suspicious order 404:2 reports are not useful to you? 404:3 A. I have not found them to be particularly 404:4 useful.	GB09.169
404:15 - 404:18	Boggs, Gary 01-17-2019 (00:00:15) 404:15 Q. Well, you can certainly answer the fact 404:16 that Mr. Rannazzisi, by virtue of the letters that 404:17 he wrote, he considered suspicious order reports 404:18 important and valuable, true?	GB09.170
404:21 - 404:22	Boggs, Gary 01-17-2019 (00:00:05) 404:21 Q. By virtue of what he put in the letters 404:22 that you saw, Exhibit 1 and Exhibit 2 or 3.	GB09.171
404:24 - 405:04	Boggs, Gary 01-17-2019 (00:00:07) 404:24 THE WITNESS: I -- I understand what was 405:1 in the letters in terms of what he thought about 405:2 it, and I would suggest -- 405:3 BY MR. HAWAL: 405:4 Q. It spoke -- spoke for itself.	GB09.172
405:07 - 405:12	Boggs, Gary 01-17-2019 (00:00:09) 405:7 THE WITNESS: Yeah. I would suggest if 405:8 you want to know what he was thinking about that, 405:9 you might have to ask him.	GB09.173

GB09-Boggs, Gary - Plaintiff's Submission

Page/Line	Source	ID
405:14 - 405:22	<p>405:10 BY MR. HAWAL:</p> <p>405:11 Q. Well, it's evident from the letters that</p> <p>405:12 he wrote what he was thinking, true?</p> <p>Boggs, Gary 01-17-2019 (00:00:15)</p> <p>405:14 THE WITNESS: I -- I will take the</p> <p>405:15 letter at face value, yes.</p> <p>405:16 BY MR. HAWAL:</p> <p>405:17 Q. And he was your supervisor, correct?</p> <p>405:18 A. He was.</p> <p>405:19 Q. He was the head of the Department of</p> <p>405:20 Diversion Control at the DEA the entire time you</p> <p>405:21 were in that department, true?</p> <p>405:22 A. He was.</p>	GB09.174
407:02 - 407:10	<p>Boggs, Gary 01-17-2019 (00:00:26)</p> <p>407:2 Q. Well, since you've left the DEA, has --</p> <p>407:3 has Mr. Rannazzisi or any other DEA representative</p> <p>407:4 sent McKesson a letter saying, We don't want your</p> <p>407:5 suspicious order reports, they're of no value to</p> <p>407:6 us? Has that ever happened?</p> <p>407:7 A. I'm not familiar with any letters that</p> <p>407:8 have that, no.</p> <p>407:9 Q. If those letters did go to the -- to</p> <p>407:10 McKesson, you would know about it, wouldn't you?</p>	GB09.175
407:14 - 407:15	<p>Boggs, Gary 01-17-2019 (00:00:02)</p> <p>407:14 Q. Wouldn't you?</p> <p>407:15 A. I would hope so, yes.</p>	GB09.176

Plaintiffs Affirmative Designations = 00:47:16

Plaintiffs Counters = 00:06:33

Plaintiff Counter Counters = 00:00:48

Defense Completeness Counters = 00:13:21

Total Time = 01:07:59